BORA LASKIN LAW LIBRARY
3 1761 10638685 7

UNIVERSITY OF TORONTO
FACULTY OF LAW

CRIMINAL LAW

Cases and Materials

Volume 2

Martha Shaffer
Hamish Stewart
Graham Mayeda
Andrew Botterell

2021-2022

These materials are distributed solely for use by students in the Faculty of Law, University of Toronto

KE
8808.5
.S53
2021/22
v.2
c.1

BORA LASKIN LAW LIBRARY

JAN 27 2022

FACULTY OF LAW
UNIVERSITY OF TORONTO

CRIMINAL LAW

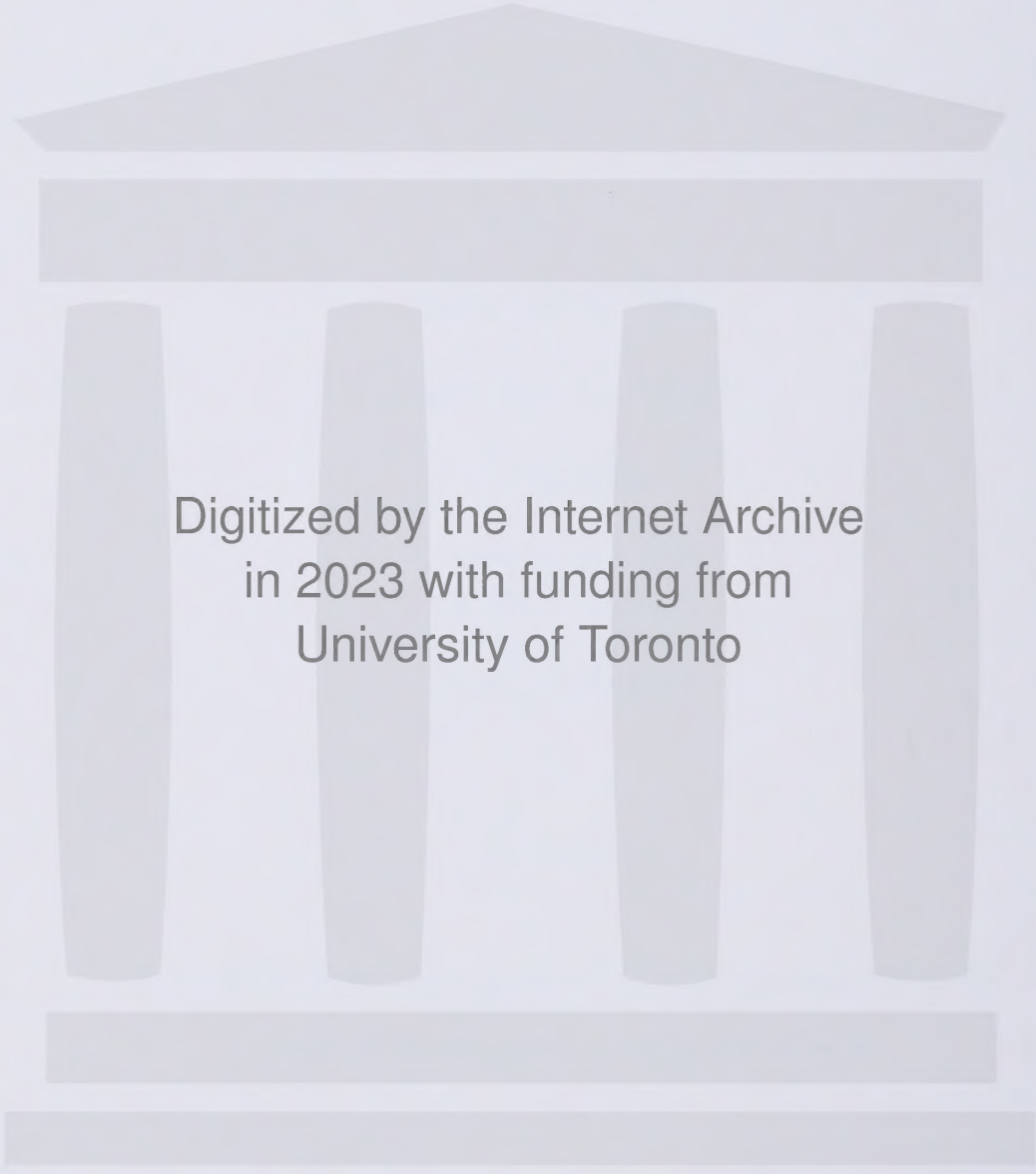
Cases and Materials

Volume 2

Martha Shaffer
Hamish Stewart
Graham Mayeda
Andrew Botterell

2021-2022

These materials are distributed solely for use by students in the Faculty of Law, University of Toronto


Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

https://archive.org/details/criminallawcases02shaf_12

Table of Contents

3 MENS REA: THE FAULT ELEMENT 291

3(a) Motive, Purpose, Intention, and Knowledge 291
Note: Lewis v. The Queen 291
R. v. Steane 295
R. v. Buzzanga and Durocher 299
Note: R. v. Hibbert 308
Further reading 312

3(b) Wilful Blindness 313
Note on Wilful Blindness 313
R. v. Lagace 314
Question on Wilful Blindness 321

3(c) Recklessness 323
Note on Recklessness 323

3(d) Objective Fault: Negligence in Criminal Law 324
3(d)(i) The Offence of Criminal Negligence Causing Death 324
R. v. Tutton and Tutton 324
Questions and Notes on Tutton 339
3(d)(ii) Negligence as an Element: Penal Negligence 339
R. v. Beatty 339
3(d)(iii) The Relationship Between Criminal Negligence and Penal Negligence 350
R. v. Javanmardi 350
3(d)(iv) The Reasonable Person Standard 361
R. v. Creighton 361
Further Reading 376

3(e) Constitutionally Required Fault 377
Vaillancourt v. The Queen 377
* R. v. Martineau 388
Questions on Vaillancourt and Martineau 399
R. v. Creighton 402
Note: R. v. Cribbin 414
Further Reading 417

3(f) Fault for Regulatory Offences 418
R. v. City of Sault Ste. Marie 418
Note: R. v. Wholesale Travel Group Inc. 426
Further Reading 426

3(g) Absolute Liability 427
R. v. Transport Robert (1973) Ltée 427
Questions 431

3(h) Fault and Mistakes 432
3(h)(i) Mistake of Fact: Introduction 432
R. v. Beaver 432
3(h)(ii) Mistake of Fact and Sexual Assault 438
* R. v. Pappajohn 438
Note on Pappajohn 451
* Sansregret v. The Queen 453
Note on Sansregret 460
Note: Failing to Take Reasonable Steps 460
Note: R. v. Ewanchuk 461
*R v. Barton 468
Further Reading 488
3(h)(iii) Mistake of Fact: Constitutional Considerations 490
Note: R. v. Nguyen; R. v. Hess 490
R. v. Darrach 492
3(h)(iv) Mistaking One Offence for Another 495
Note: R. v. Kundeus 495
3(h)(v) Mistake of Law 498
R. v. Campbell and Mlynarchuk 498
R. v. Molis 501
R. v. Docherty 505
Note: R. v. Jorgensen 511
Lévis (City) v. Tétreault; Lévis (City) v. 2629-4470 Québec Inc. 520
Further Reading 529

4. FORMS OF LIABILITY 530

4(a) Aiding and Abetting 530
4(a)(i) Actus Reus for Aiding and Abetting: Degree of Participation 531
R. v. Kulbacki 531
* R. v. Dunlop and Sylvester 532
* R. v. Russell 541
Note: R. v. Popen 547
*R. v. Dooley 549
4(a)(ii) Mens Rea for Aiding: "Purpose" 555
Note: R. v. Popen 555
R. v. Hibbert 556
* R. v. Briscoe 568
4(a)(iii) Mens Rea for abetting 574

4(b) Common Intention 575
4(b)(i) The Elements of Liability Through Common Intention 575
Note: R. v. Jackson 576
4(b)(ii) Constitutional Validity of s. 21(2) 579
R. v. Logan 579
4(c) The Defence of Abandonment 585
* R. v. Bird 585
* R. v. S.R.B. 585
* R. v. Gauthier 594

5. INCHOATE OFFENCES 607

5(a) Attempts 607
5(a)(i) The Mental Element 607
R. v. Ancio 607
R. v. Logan 613
Questions on the Mental Element for Attempts 616
5(a)(ii) The Conduct Element 617
R. v. Robinson 617
R. v. Barker 620
R. v. Cline 626
R. v. James 629
R. v. Sorrell and Bondett 630
R. v. Deutsch 633
5(a)(iii) Impossible Attempts 637
Note: The English Law of Impossible Attempts 637
United States of America v. Dynar 639